

# REGISTER



## *South Dakota Legislative Research Council*

*Volume 38*

*Monday, 8:00 a.m., June 25, 2012*

**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

***Department of Education: Board of Education:*** (June 18, 2012) intends to amend a rule to require the minimum professional performance standards for evaluating teacher performance to be aligned with the Charlotte Danielson framework for teaching beginning in the 2014-2015 school year. The general authority for this rule, as cited by the board, is SDCL §§ 13-3-69, 13-42-33, and 13-42-34.

A public hearing will be held at the Governors Inn, 700 W. Sioux Avenue, Pierre, South Dakota, on July 16, 2012, at 8:00 a.m. Copies of the proposed rule may be obtained without charge from the Department of Education, 800 Governors Drive, Pierre, South Dakota 57501-2294 or from the Internet at <http://www.doe.sd.gov/board/index.aspx>. Written comments may be sent to the board at the address above and must be received by July 6, 2012, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-5669 at least 48 hours before the hearing.

***Department of Game, Fish and Parks:*** (June 18, 2012) intends to amend a Uses of Parks and Public Lands rule to establish an exemption to the rule which prohibits unleashed dogs in state parks in order to allow the Department to establish "dog training areas" in state parks, state recreation areas, state nature areas and state lakeside use areas; amend Park Licenses and Camping Permits and Rules to

incorporate Shep's Canyon on the west shore of Angostura Reservoir in Fall River County into the existing Angostura Recreation Area and require users of the area to pay camping fees and possess a valid park entrance license; amend a Hunting Requirements and Prohibited Methods rule to further define "bait station" and place additional restrictions on the times when bait stations are prohibited for attracting big game for the purpose of hunting; amend East River Deer Hunting Season rules to adjust the number of licenses/tags available and provide that only unfilled "antlerless deer" and "antlerless whitetail deer" tags are valid during the antlerless deer season extension beginning on the Saturday after Christmas; amend Antelope Hunting Season rules to adjust the number of licenses/tags available and open antelope hunting season to residents only; adopt a Black Hills Elk Hunting Season rule to allow the winner of the elk tag issued in conjunction with the annual Elk License Raffle to hunt not only in Custer State Park but also in any unit where "any elk" licenses are issued during the Black Hills Elk season; amend National Wildlife Refuge Deer Hunting Season rules to adjust the number and types of licenses/tags available at Sand Lake National Wildlife Refuge, Lacreek National Wildlife Refuge, and Waubay National Wildlife Refuge; amend a Youth Waterfowl Hunting Season rule to adjust the season starting date from the Saturday prior to the last Saturday of September to 12 days after Labor Day; amend an Early Fall Canada Goose Hunting Season rule to increase the daily bag limit and the possession limit (subject to the approval of the U.S. Fish and Wildlife Service); and amend Dog Training rules to eliminate dog training daily bag and possession limit requirements that are currently imposed during

the hunting seasons, and differentiate between captive game birds that are taken by hunters and those taken during dog training, field trials, and similar events/contests. The general authority for these rules, as cited by the department, is SDCL §§ 41-2-18, 41-2-38, 41-6-21, 41-11-5, 41-17-1.1, and 41-17-13.4.

A public hearing will be held at the Best Western Ramkota Hotel, 920 West Sioux Avenue, Pierre, South Dakota, on July 9, 2012, at 10:00 a.m. (CDT). Copies of the proposed rules may be obtained from and written comments sent to Jeffrey R. Vonk, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received by and in the office of the Secretary of the Department of Game, Fish and Parks on or before 12:00 p.m. three (3) days prior to the date of the hearing to be included within the record of the public hearing and to be considered by the Commission. Comments may also be sent by email to [Wildinfo@state.sd.us](mailto:Wildinfo@state.sd.us). All written and email comments must include the commenter's name and address. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3387 before the hearing.

**Department of Labor and Regulation: South Dakota Board of Accountancy:** (June 20, 2012) intends to amend rules to update references, update definitions used in continuing professional education criteria, update ethics exam name, and clarification to peer review language. The general authority for these rules, as cited by the board, is SDCL §§ 36-20B-12 and 36-20B-16.

A public hearing will be held via conference call at the South Dakota Board of Accountancy, 301 E. 14<sup>th</sup> St., Suite 200, Sioux Falls, South Dakota and at the Department of Legislative Audit, 427 S. Chapelle, Pierre, South Dakota, on July 16, 2012, at 9:30 a.m. (CDT). Copies of the proposed rules may be obtained without charge from and written comments sent to the South

Dakota Board of Accountancy, 301 E. 14<sup>th</sup> Street, #200, Sioux Falls, South Dakota 57104. Material sent by mail must reach the Board of Accountancy office on or before July 11, 2012, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call (605) 367-5770 at least 48 hours before the hearing.

## NOTICES:

The **South Dakota Lottery** is ending instant ticket game numbers 395 – Cash Blast, 391 – Flashback Cash, and 392 – Revvin' 7s. The last day that prizes will be paid for the games is December 15, 2012.

The **Department of Social Services** is proposing to revise the South Dakota Medicaid State Plan concerning reimbursement rates for inpatient hospital services effective July 1, 2012. The proposed changes amend Attachment 4.19-A of the State Plan, pages 1, 2, and 5 concerning reimbursement rates for inpatient hospital services, both in-state and out-of-state. The amendment is necessary to implement the Legislature's inflationary increases for inpatient hospital services for state fiscal year 2013. The Federal fiscal impact associated with this amendment is \$1,316,178 for Federal Fiscal Year 2012 and \$5,264,713 for Federal Fiscal Year 2013. Copies of the proposed SPA are available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to the Division Director, Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

The **Department of Social Services** is proposing to revise the South Dakota Medicaid State Plan concerning reimbursement rates for outpatient hospital and other non-institutional services effective July 1, 2012. The proposed changes amend Attachment 4.19-B of the State

Plan, pages 1a, 1b, 4, 6, 15, 21, and 22 concerning reimbursement rates for outpatient hospital services, both in-state and out-of-state. The amendment also updates effective dates in the State Plan for the following provider types whose methodology statements contain expired effective dates: EPSDT services, physician services, clinic services, denture services, and prosthetic devices. The amendment is necessary to implement the Legislature's inflationary increases for outpatient hospital services for State fiscal year 2013. The Federal fiscal impact associated with this amendment is \$1,009,174 for Federal fiscal year 2012 and \$4,036,694 for Federal fiscal year 2013. Copies of the proposed SPA are available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to the Division Director, Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

## **FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

### **DEPARTMENT OF GAME, FISH AND PARKS: 141:09:04:03.**

History-Notice: 38 SDR 223, June 18, 2012  
Hearing: June 18, 2012  
Filed: June 18, 2012  
Effective: June 18, 2012

### **Executive Appointment:**

**Gloria E. Miller**, Pierre, was appointed on June 21, 2012, to the **South Dakota Commission on Child Support**, to replace Rebecca Mattern, effective immediately and shall continue until December 31, 2012.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

## **REMINDER OF HEARINGS SCHEDULED**

6-26-2012	Transportation: Aeronautics Commission	Amend rules to eliminate a definition for "private commercial airport," add a definition for "publicly owned airport," and revise the definitions of "public airport" and "private airport;" clarify the requirement concerning licensing or approval by the Aeronautics Commission of public airports and any private airport, landing field, or heliport located within two miles of the nearest boundary of any other approved airport; and repeal a rule which sets minimum requirements for private commercial airports; 38 SDR 199.
6-27-2012	Agriculture: State Brand Board	Adopt rules to increase the fee for replacing a duplicate brand certificate and increase the per head inspection fee for livestock ownership

		inspection; 38 SDR 204.
7-3-2012	Bureau of Administration	Amend rules to increase the maximum fees chargeable for legal publications required by state law; 38 SDR 219.
7-9-2012	Game, Fish and Parks	Amend a Uses of Parks and Public Lands rule to establish an exemption to the rule which prohibits unleashed dogs in state parks in order to allow the Department to establish "dog training areas" in state parks, state recreation areas, state nature areas and state lakeside use areas; amend Park Licenses and Camping Permits and Rules to incorporate Shep's Canyon on the west shore of Angostura Reservoir in Fall River County into the existing Angostura Recreation Area and require users of the area to pay camping fees and possess a valid park entrance license; amend a Hunting Requirements and Prohibited Methods rule to further define "bait station" and place additional restrictions on the times when bait stations are prohibited for attracting big game for the purpose of hunting; amend East River Deer Hunting Season rules to adjust the number of licenses/tags available and provide that only unfilled "antlerless deer" and "antlerless whitetail deer" tags are valid during the antlerless deer season extension beginning on the Saturday after Christmas; amend Antelope Hunting Season rules to adjust the number of licenses/tags available and open antelope hunting season to residents only; adopt a Black Hills Elk Hunting Season rule to allow the winner of the elk tag issued in conjunction with the annual Elk License Raffle to hunt not only in Custer State Park but also in any unit where "any elk" licenses are issued during the Black Hills Elk season; amend National Wildlife Refuge Deer Hunting Season rules to adjust the number and types of licenses/tags available at Sand Lake National Wildlife Refuge, Lacreek National Wildlife Refuge, and Waubay National Wildlife Refuge; amend a Youth Waterfowl Hunting Season rule to adjust the season starting date from the Saturday prior to the last Saturday of September to 12 days after Labor Day; amend an Early Fall Canada Goose Hunting Season rule to increase the daily bag limit and the

		possession limit (subject to the approval of the U.S. Fish and Wildlife Service); and amend Dog Training rules to eliminate dog training daily bag and possession limit requirements that are currently imposed during the hunting seasons, and differentiate between captive game birds that are taken by hunters and those taken during dog training, field trials, and similar events/contests; 38 SDR 229.
7-10-2012	Agriculture: Animal Industry Board	Amend rules to relax the requirements for a certificate of veterinary inspection to accompany cats and dogs entering the state with their owners for a period of less than 30 days and update current dates of reference material; 39 SDR 223.
7-11-2012	Environment and Natural Resources: Water Management Board	Amend rules to provide definitions of terms "livestock" and "confinement operation" and repeal the definition of "stock watering;" remove the requirement that the Water Management Board have an official seal; modify definition of water uses requiring a water permit or right in part due to statutory changes; repeal definition of what is not a water distribution system; reduce the requirements for registering a domestic well as well as for completing applications for water permits and vested water right claims; remove the reference to a public hearing in the assignment of a number to a permit application; remove references to publication of notices a second time and reduce the number of days needed to issue a water permit; and modify who can provide irrigation water use information to the chief engineer and how the information can be reported; 38 SDR 233.
7-16-2012	Education: Board of Education	Amend a rule to require the minimum professional performance standards for evaluating teacher performance to be aligned with the Charlotte Danielson framework for teaching beginning in the 2014-2015 school year; 38 SDR 229.
7-16-2012	Labor and Regulation: Board of Accountancy	Amend rules to update references, update definitions used in continuing professional education criteria, update ethics exam name, and clarification to peer review language; 38 SDR 230.
7-20-2012	Public Safety: Office of Weights and Measures	Adopt rules to permit the sale of 85 Octane gasoline throughout South Dakota but require

		cautionary labeling, to specify the required retail dispenser labeling requirements, to require documentation for product quantity, grade and rating, and to define the duties of refiners, importers, producers, distributors and retailers consistent with the Code of Federal Regulations Title 16, Parts 306.5 through 306.12, inclusive; 38 SDR 224.
9-7-2012	Tourism: State Historical Society	Amend rules to set standard fees for services provided by the State Historical Society; revise the State Historic Preservation Office's review and handling of property tax moratorium applications; and alter when recipients of Deadwood Fund preservation grants from the State Historic Preservation Office must file the required preservation covenant for the grant; 38 SDR 199.

### RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, July 10, 2012, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2012 interim: August 14, September 18, November 13, and December 18.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.